

## Understanding the removal process

### **NRS 116.31036 Removal of member of executive board.**

1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section, the number of votes **cast in favor of removal** constitutes:

- (a) At least 35 percent of the total number of voting members of the association; and
- (b) At least a majority of all votes cast in that removal election.

HOA has 433 units, voting members, 35% equals 151.5. Translation is minimum 152 ballots must be returned. If less than 152 are returned must they be opened, counted and recorded? **Yes – the removal meeting must be held and the ballots opened and counted regardless of how many are returned.**

If 152 ballots are returned the majority count minimum is 77 to recall and remove? **No – 35% (152) must vote in favor. (that is subsection a)**

The confusion mainly comes here. If the ballots returned counts 200 then would the majority vote then become 101? **152 votes must be in favor and that would satisfy the majority of 101 of the those returning ballots (that is subsection b)**

Keep in mind you must satisfy both (a) and (b). (b) is irrelevant if you don't have (a). Whatever your return on the ballots – ask yourself: 1. Have 35% of the voters voted in favor, if so, then ask yourself: 2. Are those voting in favor more than those voting against the removal. If you answer yes to both 1 and 2 – removal has taken place. If you answer “no” to the first question, removal has not occurred. The analysis would end there.